

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kelly Lyon	Team: Squad #10	CCRB Case #: 201910826	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 05/14/2019 3:56 PM	Location of Incident: § 87(2)(b)	Precinct: 42	18 Mo. SOL 11/14/2020	EO SOL 7/1/2021	
Date/Time CV Reported Wed, 12/18/2019 2:04 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 12/18/2019 2:04 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Christian McAteer	14586	956904	042 PCT
2. POM Edward Murray	02512	961969	042 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Edward Murray	Abuse: Police Officer Edward Murray entered § 87(2)(b) in the Bronx.	§ 87(2)(b)
B.POM Christian McAteer	Abuse: Police Officer Christian McAteer entered § 87(2)(b) in the Bronx.	§ 87(2)(b)
C.POM Edward Murray	Abuse: Police Officer Edward Murray threatened to remove § 87(2)(b) to the hospital.	§ 87(2)(b)
D.POM Christian McAteer	Abuse: Police Officer Christian McAteer threatened to remove § 87(2)(b) to the hospital.	§ 87(2)(b)
E.POM Edward Murray	Abuse: Police Officer Edward Murray threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
F.POM Edward Murray	Abuse: Police Officer Edward Murray refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)
G.POM Christian McAteer	Abuse: Police Officer Christian McAteer refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)

Case Summary

On December 18, 2019, § 87(2)(b) filed this complaint with the CCRB online.

On May 14, 2019, at approximately 3:56 p.m., § 87(2)(b) was inside of his apartment located at § 87(2)(b), when the social service staff at his residence and emergency medical services (EMS) came to his door. PO Edward Murray and PO Christian McAteer, of the 42nd Precinct, arrived afterward. § 87(2)(b) refused to step into the hallway and PO Murray walked into the front hallway within § 87(2)(b)'s apartment (**Allegation A: Abuse of Authority – Entry of Premises, § 87(2)(g)**) followed by PO McAteer (**Allegation B: Abuse of Authority – Entry of Premises, § 87(2)(g)**). PO Murray and PO McAteer told § 87(2)(b) that he needed to be evaluated by EMS (**Allegation C: Abuse of Authority: Threat of removal to the hospital, § 87(2)(g)** and **Allegation D: Abuse of Authority: Threat of Removal to the Hospital, § 87(2)(g)**). PO Murray told § 87(2)(b) that he would put him in handcuffs if he did not cooperate (**Allegation E: Abuse of Authority – § 87(2)(g)**).

§ 87(2)(b) went into the hallway while the social services staff looked inside his apartment for a dog they thought he was hiding. The social services staff did not find a dog, left the apartment, and an emergency medical technician (EMT) evaluated § 87(2)(b) asked PO McAteer and PO Murray for their shield numbers and did not receive them (**Allegation F: Abuse of Authority – Refusal to provide shield number, § 87(2)(g)**) and (**Allegation G: Abuse of Authority – Refusal to provide shield number, § 87(2)(g)**). The EMT determined that § 87(2)(b) did not need to go to the hospital, § 87(2)(b) shut his door, and everyone left.

This incident resulted in no summons or arrests.

There were two body-worn camera videos (**BR 01, BR 02, and BR 19**) located in IAs 62 and 63. There was no other known footage of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Edward Murray entered § 87(2)(b), in the Bronx.

Allegation (C) Abuse of Authority: Police Officer Edward Murray threatened to remove § 87(2)(b) to the hospital.

Allegation (E) Abuse of Authority: Police Officer Edward Murray threatened § 87(2)(b) with the use of force.

It was undisputed that § 87(2)(b). On May 14, 2019, § 87(2)(b) called 911 and requested police to come to the building because § 87(2)(b) was barricaded inside his apartment with a pet that was not permitted in the apartment. § 87(2)(b) also informed EMS via 911 that § 87(2)(b) was not compliant with psychiatric medication. EMS arrived first and PO Murray and PO McAteer responded to the location over an hour later.

§ 87(2)(b) consistently stated (**BR 03 and BR 04**) that PO Murray and PO McAteer entered his apartment without his permission to assist social service staff members § 87(2)(b) and § 87(2)(b) look for a dog that was not in his apartment. During his interview (**BR 04**), § 87(2)(b) further explained that his friend § 87(2)(b) brought his puppy to his apartment earlier that day. The facility director, § 87(2)(b) asked § 87(2)(b) to open the door to his apartment and he refused. § 87(2)(b) EMTs, PO Murray, and PO McAteer came to § 87(2)(b)'s apartment and § 87(2)(b) told § 87(2)(b) that he was not taking his HIV medication and informed him that they were looking for a dog. § 87(2)(b) asked § 87(2)(b) how she would know whether he was taking his

medication. § 87(2)(b) stated during his interview that he was compliant with his medication and that the dog left earlier that morning.

When PO Murray and PO McAteer arrived, § 87(2)(b) told them that they could not enter his apartment without a warrant. PO Murray told § 87(2)(b) that if he did not calm down, he would take him out of the apartment and handcuff him. § 87(2)(b) then stopped arguing and allowed § 87(2)(b) and § 87(2)(b) to enter. PO Murray and PO McAteer stayed in the front hallway area of § 87(2)(b)'s apartment while § 87(2)(b) and § 87(2)(b) looked for the dog. § 87(2)(b) allowed the EMT to examine him.

§ 87(2)(b) stated that (BR 05) § 87(2)(b) snuck a dog into the building which was not permitted per § 87(2)(b)'s lease agreement. Staff members attempted to address the situation with § 87(2)(b) and he became belligerent. Police were called and § 87(2)(b) let PO Murray and PO McAteer enter § 87(2)(b)'s apartment with § 87(2)(b) and § 87(2)(b). § 87(2)(b) explained that the police were there to protect § 87(2)(b) and § 87(2)(b) and keep things deescalated while they looked for the dog because § 87(2)(b) had gotten belligerent toward staff. § 87(2)(b) learned later that the § 87(2)(b) snuck the dog out of the apartment in a bag.

§ 87(2)(b) confirmed that § 87(2)(b) and § 87(2)(b) no longer worked for The Doe Fund and therefore could not be contacted for a statement. It was determined that § 87(2)(b) exited the premises before the officers arrived.

§ 87(2)(b) § 87(2)(b) 911 call (BR 06; audio, BR 07; transcription), showed that § 87(2)(b) § 87(2)(b) requested police regarding a dog that was not allowed in the building. § 87(2)(b) § 87(2)(b) described § 87(2)(b) § 87(2)(b) stated he was barricaded in his apartment, and had a mental health history. § 87(2)(b) § 87(2)(b) call was then transferred to EMS where he explained that § 87(2)(b) was not compliant with his psychiatric medication, was upset, and that he was not being violent, but could become violent.

An incident report from § 87(2)(b) (BR 08) prepared by § 87(2)(b) § 87(2)(b) was consistent with his 911 call and § 87(2)(b)'s statement. The incident report showed that § 87(2)(b) § 87(2)(b) and § 87(2)(b) went to § 87(2)(b)'s apartment to perform a home visit to verify whether he had an unauthorized dog in the apartment. § 87(2)(b) refused to cooperate and the dog was heard barking inside of the apartment. § 87(2)(b) instructed § 87(2)(b) to call the police and EMS due to § 87(2)(b)'s non-compliance with the pet policy, behaving irate, and because he might have been non-compliant with his medications. Social service staff members, EMS, and a security guard went to § 87(2)(b)'s apartment and after ten minutes § 87(2)(b) opened his door and a guest left his apartment with a large bag, presumably with the dog inside. Afterward, NYPD officers arrived and asked § 87(2)(b) to step into the hallway. § 87(2)(b) was initially resistant and swore at the officers before allowing social service staff to inspect his apartment. No dog was found in the apartment.

The FDNY ambulance call report (BR 09) showed that § 87(2)(b) § 87(2)(b) call came over at 2:17 p.m. and the information provided was consistent with the 911 call (BR 06). At 2:29 p.m., EMS requested a police vehicle. At 4:07 p.m., police made contact with § 87(2)(b). In the end it was determined that there was no EMS action needed.

PO Murray stated (BR 10) that he learned that § 87(2)(b) was not compliant with his psychiatric medication either from the job description or from a staff member at the building which was consistent with what § 87(2)(b) § 87(2)(b) reported to EMS during his 911 call. PO Murray stated that his primary concern was to get § 87(2)(b) to step into the hallway to be evaluated by EMS. PO Murray entered the apartment and told § 87(2)(b) that he would handcuff him if he did not cooperate because he did not want § 87(2)(b) to be a physical threat to EMS. PO Murray explained that since there were multiple staff members and EMTs present it would not have been safe for everyone to be inside of the opening of § 87(2)(b)'s apartment because it was small and dark. PO Murray added that if EMS had wanted § 87(2)(b) to go to the hospital and he refused, then he would have had to be handcuffed for everyone's safety. PO Murray did not independently recall an issue with a dog inside the apartment.

PO Murray's body-worn camera footage (**BR 02**), showed that EMS and social service staff members § 87(2)(b) and § 87(2)(b) were already in the hallway when PO Murray arrived and § 87(2)(b)'s door was cracked open. At 00:30 seconds in the video, PO Murray asks § 87(2)(b) to step into the hallway and § 87(2)(b) says he does not want to. PO Murray and PO McAteer then enter the front hallway inside of § 87(2)(b)'s apartment. PO Murray instructs § 87(2)(b) to step into the hallway multiple times. PO McAteer says, "You're not under arrest but you need to speak to EMS. They want you to go to the hospital." PO Murray says, "If you comply with me you're going to step out, if not I'm going to put you in handcuffs."

At 1:24 minutes, § 87(2)(b) steps into the hallway and PO Murray remains inside of the doorway of § 87(2)(b)'s apartment. § 87(2)(b) starts arguing with § 87(2)(b) about whether anyone saw him enter the building with a dog. § 87(2)(b) raises his voice and appears agitated. § 87(2)(b) tells § 87(2)(b) that they called to remove the dog from his apartment. At 2:02 minutes, PO McAteer says, "Do you want us to check to prove to them that there's no dog in the apartment?" and § 87(2)(b) says, "Yes, we need to verify that." PO Murray turns on the light switch next to § 87(2)(b)'s door. § 87(2)(b) says, "I didn't allow you guys to come into the fucking apartment," and PO McAteer says, "It's up to them." § 87(2)(b) says, "Let us check." PO McAteer steps into the apartment followed by § 87(2)(b). At 2:14 minutes, § 87(2)(b) steps into the apartment and says, "Don't touch me," to PO Murray. PO Murray says, "Sir, you're this close to being put into handcuffs I'm telling you right now."

At 2:40 minutes, PO Murray is standing in the hallway outside of the apartment with § 87(2)(b). § 87(2)(b) is talking on a cellphone. § 87(2)(b) and § 87(2)(b) have entered the apartment to look for the dog by themselves and PO McAteer is standing in the hallway holding the door open. At 3:25 minutes, PO Murray says, "Who's making the claims that he's not taking his medication?" and an EMT replies offscreen, "They are." At 3:52 minutes, § 87(2)(b) asks § 87(2)(b) to go inside and open a dog bag while PO McAteer stands in the doorway. At 4:38 minutes, § 87(2)(b) and § 87(2)(b) exit the apartment and § 87(2)(b) tries to shut the door, but PO McAteer is still standing in the opening. § 87(2)(b) says, "The EMT has to evaluate you to make sure you're okay." At 5:00 minutes, the EMT enters § 87(2)(b)'s apartment to evaluate him. The EMT clears § 87(2)(b) and exits the apartment.

Although staff members at the building had called 911 in part to help assist with the unauthorized dog in § 87(2)(b)'s apartment, the primary purpose of PO Murray's and PO McAteer's presence was to maintain the peace, protect staff, and facilitate § 87(2)(b) being evaluated by EMS to evaluate whether he needed to go to the hospital for not taking psychiatric medication.

In *People v. Rodriguez*, 77 A.D. 3d 280 (2010) (**BR 11**), the court found that officers were permitted to make a warrantless entry of a premises when the officers reasonably believed that there was an emergency which required immediate assistance for the protection of life or property, and that there was a reasonable basis to associate the premises with the emergency at hand.

Patrol Guide procedure 216-01 (**BR 12**) states for AIDED cases, members of service shall cooperate with ambulance personnel in every reasonable manner.

Patrol Guide procedure 221-01 (**BR 13**) states that force may be used when it is reasonable to ensure the safety of a third person or otherwise protect life and must be reasonable under the circumstances.

§ 87(2)(g)

§ 87(2)(g)

Allegation (F) Abuse of Authority: Police Officer Edward Murray refused to provide his shield number to § 87(2)(b) .

It was undisputed that § 87(2)(b) stated that he wanted officer shield numbers and did not receive them. § 87(2)(b) stated (BR 04) that he asked for shield numbers when PO Murray and PO McAteer first entered his apartment and neither PO Murray nor PO McAteer acknowledged § 87(2)(b) when he asked for shield numbers.

§ 87(2)(g) PO McAteer's body-camera video footage (BR 01) shows that § 87(2)(b) only requested shield numbers toward the end of the incident. The video captures § 87(2)(b) being evaluated by an EMT inside of his apartment starting at 5:00 minutes. At 5:52 minutes, § 87(2)(b) says to the EMT, "I want badge numbers." PO McAteer responds, "You can get those." The EMT says, "You can get badge numbers but it's the residence that called for us. So, when they call for us, we have to come and do our assessment." § 87(2)(b) says, "I understand." The EMT steps out and PO McAteer says, "Is he good?" The EMT says, "Yeah he's good." PO McAteer says, "So you want numbers or no?" to § 87(2)(b) and he slams the door close. PO McAteer says, "Alright," and turns his camera off.

PO Murray (BR 10) did not independently recall § 87(2)(b) asking for shield numbers. After viewing body-worn camera footage during his interview, PO Murray explained that he did not give his shield number to § 87(2)(b) because § 87(2)(b) did not give him or his partner the opportunity to provide shield numbers when § 87(2)(b) slammed the door shut.

Patrol Guide procedure 203-09 (BR 14) states that officers are to clearly state their shield number to anyone who requests an officer to do so.

§ 87(2)(g)

Allegation (B) Abuse of Authority: Police Officer Christian McAteer entered § 87(2)(b) .

Allegation (D) Abuse of Authority: Police Officer Christian McAteer threatened to remove § 87(2)(b) to the hospital.

Allegation (G) Abuse of Authority: Police Officer Christian McAteer refused to provide his shield number to § 87(2)(b) .

According to the Department Advocate's Office (BR 15), PO McAteer resigned from the police department on July 13, 2019. § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)

§ 87(2)(b)

- § 87(2)(g)

- § 87(2)(b) declined to mediate this complaint.
- As of September 15, 2020, the NYC Comptroller's Office, has no record of a Notice of Claim being filed in regard to this complaint (**BR 17**).

- § 87(2)(b), § 87(2)(c)

Squad No.: 10

Investigator: Kelly Lyon Inv. Kelly Lyon 9/15/2020
 Signature Print Title & Name Date

Squad Leader: Eric Riege IM Eric Riege 9/16/2020
Signature Print Title & Name Date

Reviewer: _____

Signature _____ Print Title & Name _____ Date _____